

REMARKS

With traverse, as detailed below, applicants elect claims 64 – 76 (Group I), drawn to a composition comprising a combination of (i) a fatty acid ester of formula I or an isomer thereof and (ii) niacinamide, a salt, or a derivative thereof. They reserve the right to file one or more divisional applications, directed to non-elected subject matter.

In relation to the Group I claims, applicants respond to the election-of-species requirement (Office action, page 4) by electing the species that Examiner Karol has identified with (a) 1-glyceryl-monocaprylate, (b) niacinamide, and (e) topical administration. Applicants' believe that elected claims 64, 66, 67, and 69 – 76 read on the elected species. In the event that the examiner removes the restriction, based on applicants' traversal below, then applicants further elect the species identified with (c) infection with rhinovirus and (d) contact dermatitis, upon which non-elected claim 77, 78, 80 – 82, and 84 – 92 read.

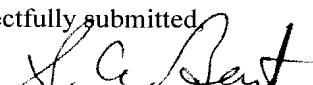
Applicants' traversal is made in view of the present revision of the claims, whereby De Ritter *et al.*, U.S. patent No. 3,676,556, is obviated as probative evidence that a "special technical feature, which the examiner has acknowledged, "is known in the prior art" (Office action at page 3, last full sentence). In the present claims, that is, R' no longer encompasses fatty acids of C₁₆-C₁₈ chain length, which eliminates the fatty acids disclosed by De Ritter.

In light of the foregoing, applicants submit that the acknowledged common technical feature is not taught by De Ritter and, hence, that unity of invention pertains under PCT Rule 13.2. Accordingly, applicants request that the examiner withdraw the restriction requirement and examine, with the elected claims, the claims of Groups II – VII as well.

Applicants also authorize the Commissioner to charge any additional fees, which may be required under 37 CFR §§ 1.16-1.17, and to credit any overpayment to Deposit Account No. 19-0741. Should no proper payment accompany this response, then the Commissioner is authorized to charge the unpaid amount to the same deposit account. If any extension is needed for timely acceptance of submitted papers, applicants petition for such extension under 37 CFR §1.136 and authorize payment of relevant fees from the deposit account.

Respectfully submitted,

By



Date 17 April 2008

FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 672-5404
Facsimile: (202) 672-5399

Stephen A. Bent
Attorney for Applicant
Registration No. 29,768